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**CERTIFICATE OF MAILING 37 C.F.R. 1.8(a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313 on the date indicated below.

January 5, 2004  
Date

Amy Lewis-Wallace

JAN 08 2004  
C56  
U.S. PATENT & TRADEMARK OFFICE

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Patent Application of: Wiechmann, et al ) Examiner: Unknown  
Serial No.: 10/075,676 )  
Filed: 02/13/2002 )  
For: MODULAR SYSTEM FOR ) Attorney Docket No. 064477.00002  
CUSTOMIZED ORTHODONTIC )  
APPLIANCES )  
Group Art Unit: 3762

**TRANSMITTAL SHEET**

Commissioner of Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

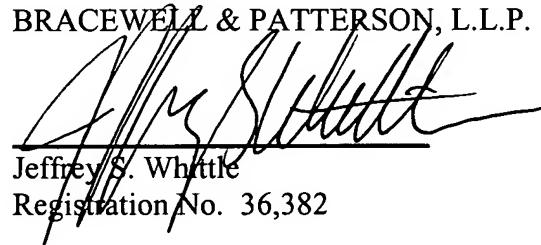
Transmitted herewith for filing are the following documents:

1. Response to Restriction Requirement;
2. Copy of Office Action Summary;
3. Postcard; and
4. Transmittal letter in duplicate.

The Commissioner is authorized to credit any overpayments or charge any additional fees to the Deposit Account # 50-0259 Bracewell & Patterson, L.L.P., (Attorney Docket No. 064477.02).

Respectfully submitted,

BRACEWELL & PATTERSON, L.L.P.

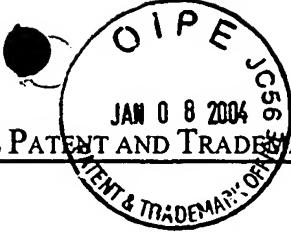
  
Jeffrey S. Whittle  
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Date: January 5, 2004

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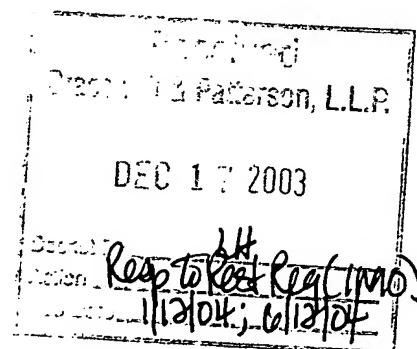
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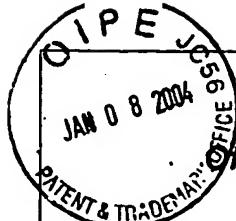
APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,676	02/13/2002	Dirk Wiechmann	MBHB 02-004	2653
7590	12/12/2003		EXAMINER	
JEFFREY S. WHITTLE BRACEWELL & PATTERSON, L.L.P. P.O. BOX 61389 HOUSTON, TX 77208-1389			O CONNOR, CARY E	
			ART UNIT	PAPER NUMBER
				3732

DATE MAILED: 12/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.	10/075,676	Applicant(s)	WIECHMANN ET AL
Examiner	Cary E. O'Connor	Art Unit	3732

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on \_\_\_\_\_.  
 2a)  This action is FINAL.                    2b)  This action is non-final.  
 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-78 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5)  Claim(s) \_\_\_\_ is/are allowed.  
 6)  Claim(s) \_\_\_\_ is/are rejected.  
 7)  Claim(s) \_\_\_\_ is/are objected to.  
 8)  Claim(s) 1-78 are subject to restriction and/or election requirement.

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### Application Papers

9)  The specification is objected to by the Examiner.  
 10)  The drawing(s) filed on \_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a)  All b)  Some \* c)  None of:  
 1.  Certified copies of the priority documents have been received.  
 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
 a)  The translation of the foreign language provisional application has been received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

1)  Notice of References Cited (PTO-892)  
 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.  
 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
 5)  Notice of Informal Patent Application (PTO-152)  
 6)  Other: \_\_\_\_\_



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**DETAILED ACTION**

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-21, 28-44, 51-72, drawn to an orthodontic bracket, method of designing the bracket and method of manufacturing the bracket, classified in class 433, subclass 8.
- II. Claims 22-28, 73-78, drawn to an archwire and method of making, classified in class 433, subclass 20.
- III. Claims 45-50, drawn to a method of making an orthodontic bracket having a bonding pad made of a material having a different hardness, classified in class 433, subclass 9.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as it may be used with a non-canted archwire. See MPEP § 806.05(d).

Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as it may be used in a bracket with a bonding pad of the same material. See MPEP § 806.05(d).

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the bracket may have a bonding pad having the same material.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cary E. O'Connor whose telephone number is 703-308-2701. The examiner can normally be reached on M-Th 7:00-3:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 703-308-2582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

*Cary E. O'Connor*  
Cary E. O'Connor  
Primary Examiner  
Art Unit 3732

ceo  
December 10, 2003